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Plaintiff - *In Pro Se*



**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

SAMUEL BERNARD JOHNSON III,
Plaintiff,

vs.

CHEVRON CORPORATION, a Delaware
corporation, CHEVRON
ENVIRONMENTAL MANAGEMENT
COMPANY, a California corporation, and
DOES 1-10, inclusive

Defendants

Case No.: C 07-05756 SI (JSC)

**PLAINTIFF'S EX PARTE MOTION TO
SHORTEN TIME**

Samuel Bernard Johnson III, (hereinafter referred to as “Plaintiff Johnson”) hereby moves the Court for an Ex Parte Motion pursuant to Civil Local Rules 7-10 and 6.3 for an order to Shorten Time for Delia A. Isvoranu of Filice Brown Eassa & McLeod LLP, (hereinafter referred to as “Counsel for Chevron”) to file and serve its Opposition to Plaintiff Johnson’s Motion for Leave to File a First Amended Complaint.

I. REASONS TO SHORTEN TIME FOR COUNSEL FOR CHEVRON TO FILE ITS OPPOSITION TO PLAINTIFF JOHNSON’S MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

On June 12, 2008, Plaintiff Johnson filed the following pleadings with the Court:

1. Plaintiff’s Notice of Motion for Leave to File a First Amended Complaint;
2. Plaintiff’s Memorandum In Support of Motion for Leave to File a First Amended Complaint;
3. Exhibit A to Plaintiff’s Memorandum In Support of Motion for Leave to File a First Amended Complaint;
4. Declaration of Samuel Bernard Johnson III In Support of Plaintiff’s Motion for Leave to File a First Amended Complaint;
5. [Proposed] Order Granting Plaintiff’s Motion for Leave to File a First Amended Complaint;
6. Stipulation and [Proposed] Order to File Exhibit A To Plaintiff’s Memorandum In Support of Motion for Leave to File A First Amended Complaint Under Seal Pursuant to the Honorable Susan Illston’s Pretrial Preparation Order (Corrected) Filed on May 22, 2008, Standing Order at Section 3, and Civil Local Rules 712- and 79-(c);
7. Manual Filing Notification of Exhibit A to Plaintiff’s Memorandum IN Support of Motion for Leave to File A First Amended Complaint “Document Filed Under Seal”;
8. Exhibit A to Plaintiff’s Memorandum In Support of Motion for Leave to File A First Amended Complaint “Document Filed Under Seal”; and

1 9. Proof of Service By Electronic Case Filing System and Hand Delivery.

2 When Plaintiff Johnson filed pleadings 1-9 as referenced above, Plaintiff Johnson notice
 3 the hearing in connection with this pleadings for Friday, July 18, 2008, pursuant to Civil Local
 4 Rule 7-2(a) with a filing date of July 13, 2008, for Plaintiff's Motion for Leave to File a First
 5 Amended Complaint. Plaintiff Johnson filed Plaintiff's Motion for Leave to File a First
 6 Amended Complaint and supporting papers on Thursday, July 12, 2008. On June 16, 2008, the
 7 Clerk of the Court notified all parties that the hearing pertaining to Plaintiff Johnson's Motion
 8 for Leave to File a First Amended Complaint was continued from Friday, July 18, 2008 to
 9 Friday, August 22, 2008. When the Clerk of the Court did such, that provided Counsel for
 10 Chevron with an additional six (6) weeks (forty (40) days) in which to file its Opposition to
 11 Plaintiff's Motion for Leave to File a First Amended Complaint. Due to such, Plaintiff Johnson
 12 now seeks leave from the Court by way of this Ex Parte Motion to have the dates for the
 13 Opposition to Plaintiff's Motion for Leave to File a First Amended Complaint and Plaintiff's
 14 Reply to the Opposition to Plaintiff's Motion for Leave to File a First Amended Complaint set by
 15 the Friday, July 18, 2008. initial hearing that was noticed on June 12, 2008.

16 **II. EFFORTS PLAINTIFF JOHNSON HAS MADE TO OBTAIN A STIPULATION**

17 On June 16, 2008, Plaintiff Johnson sent an email to Counsel for Chevron reiterating the
 18 Clerk of the Court's notice pertaining to the hearing date change for Plaintiff's Motion to File A
 19 First Amended Complaint. Plaintiff Johnson also advised Counsel for Chevron that her initial
 20 Opposition to Plaintiff's Motion for Leave to File a First Amended Complaint was due on
 21 Friday, June 27, 2008. Plaintiff Johnson also informed Counsel for Chevron that given the
 22 revised hearing date of Friday, August 22, 2008, that would mean that Counsel for Chevron's
 23 Opposition to Plaintiff's Motion for Leave to File a First Amended Complaint is now due on
 24 Friday, August 1, 2008.

25 Plaintiff Johnson further informed Counsel for Chevron that he had contacted the Clerk
 26 of the Court regarding this matter and proposed that the parties stipulate to keep the original
 27 dates for all responsive pleadings to Plaintiff's Motion for Leave to File a First Amended
 28 Complaint based off the Friday, July 18, 2008, hearing. Plaintiff Johnson also informed Counsel

1 for Chevron that if she would not stipulate to this, then Plaintiff Johnson would file an Ex Parte
 2 Motion along with a declaration stating Counsel for Chevron's position on not wanting to agree
 3 with the dates for responsive pleadings per the Friday, July 18, 2008, hearing.

4 Plaintiff Johnson further informed Counsel for Chevron that he felt such was only fair as
 5 Counsel for Chevron's Opposition to Plaintiff's Motion for Leave to File a First Amended
 6 Complaint should stand on its merits based off the responsive pleading dates imposed by the
 7 Friday, July 18, 2008, hearing. Plaintiff Johnson provided Counsel for Chevron with a deadline
 8 of 5:00 p.m. on today (June 17, 2008) or Plaintiff Johnson would file a motion with the Court
 9 seeking relief to impose the responsive pleading deadlines to Plaintiff's Motion for Leave to File
 10 a First Amended Complaint based on the Friday, July 18, 2008, hearing. Counsel for Chevron
 11 has not responded by the deadline of 5:00 on today (June 17, 2008) as requested by Plaintiff
 12 Johnson. *See* Declaration of Samuel Bernard Johnson III ISO Plaintiff's Ex Parte Application to
 13 Shorten Time at ¶¶ 1-5.

14 **III. SUBSTANTIAL HARM OR PREJUDICE THAT WOULD OCCUR IF THE** 15 **COURT DID NOT CHANGE THE TIME**

16 Plaintiff Johnson contends that he will be harmed if Counsel for Chevron is provided
 17 with an additional six (6) weeks (forty (40) days) to prepare a responsive pleading to Plaintiff's
 18 Motion for Leave to File a First Amended Complaint. Pursuant to Civ. L.R. 7-3(a), when a party
 19 files a Motion seeking leave from the Court the responsive opposition to such a pleading is due
 20 twenty-one days from the date of the noticed hearing. Likewise, pursuant to Civ. L.R. (7-3(c) a
 21 reply to the responsive opposition is due fourteen (14) days prior to the noticed hearing. As
 22 stated herein, Plaintiff Johnson noticed the initial hearing for Friday, July 18, 2008. Based on
 23 that noticed hearing date, Counsel for Chevron's Opposition to Plaintiff's Motion for Leave to
 24 File a First Amended Complaint is due on Friday, June 27, 2008. Likewise, Plaintiff's Reply to
 25 that Opposition is due on July 4, 2008.

26 Plaintiff Johnson contends that he will be prejudiced if Counsel for Chevron is allowed to
 27 file its responsive Opposition to Plaintiff's Motion for Leave to File a First Amended Complaint
 28 based on the August 22, 2008, hearing date. Such provides Counsel with an additional six (6)

1 weeks ((forty (40) days) from June 27, 2008 to prepare such an opposition. Wherein, based off
 2 the July 18, 2008, hearing date, Counsel for Chevron would only have two (2) weeks (fourteen
 3 (14) days) from June 13, 2008, to prepare and file its Opposition to Plaintiff's Motion for Leave
 4 to File a First Amended Complaint. Based on the aforementioned, Plaintiff Johnson contends
 5 that if the Court does not grant the relief he seeks in the filing of this Ex Parte Motion to Shorten
 6 Time, then Plaintiff Johnson will be prejudiced by such additional time that Counsel for Chevron
 7 will have to prepare and file a responsive pleading to Plaintiff's Motion for Leave to File a First
 8 Amended Complaint.

9 **IV. MOTION IS TO SHORTEN TIME FOR THE COURT TO HEAR A**
 10 **MOTION**

11 This Ex Parte Motion is to shorten the time for Counsel for Chevron to file its responsive
 12 pleading to Plaintiff's Motion for Leave to File a First Amended Complaint as well as for
 13 Plaintiff Johnson to file his responsive pleading to Counsel for Chevron's Opposition to
 14 Plaintiff's Motion for Leave to File a First Amended Complaint.

15 **A. Plaintiff Johnson's Compliance With Civil Local Rule 37-1(a)**

16 Plaintiff Johnson contends that Civ. L.R. 37-1(a) is not applicable to this Ex Parte Motion
 17 to Shorten Time

18 **B. Nature of Underlying Dispute In The Motion An Each Party's Position As It**
 19 **Pertains to The Motion**

20 Plaintiff Johnson contends that the underlining dispute in the motion is that
 21 Plaintiff Johnson seeks leave from the Court to file a first amended complaint as well as to have
 22 the parties adhere to the July 18, 2008, hearing dates for all responsive pleadings that have to be
 23 filed and served on each respective party. Plaintiff Johnson contends that Counsel for Chevron
 24 opposes such a motion for leave to file a first amended complaint. As it pertains to this Ex Parte
 25 Motion to Shorten Time, Counsel for Chevron has chosen not to respond to any of Plaintiff
 26 Johnson's emails to provide its position. Plaintiff Johnson further informs this Court that
 27 Counsel for Chevron has stayed in contact with Plaintiff Johnson leading up to the filing of the
 28 Motion for Leave to File a First Amended Complaint even asking Plaintiff Johnson when he was

going to supplement his Initial Disclosures.

**V. PREVIOUS TIME MODIFICATIONS IN THE CASE, WHETHER BY
STIPULATION OR COURT ORDER**

Plaintiff Johnson contends that the previous dates associated with Plaintiff's Motion for Leave to File a First Amended Complaint and any responsive pleadings to such were as followed: (1) Counsel for Chevron's Opposition was due on Friday, June 27, 2008; and (2) Plaintiff Johnson's Reply to Counsel for Chevron's Opposition was due on Friday, July 4, 2008.

Plaintiff Johnson now asserts that with the continuance of the hearing pertaining to Plaintiff's Motion for Leave to File a First Amended Complaint the following dates now apply: (1) Counsel for Chevron's Opposition is now due on Friday, August 1, 2008; and (2) Plaintiff Johnson's Reply to Counsel for Chevron's Opposition is now due on Friday, August 8, 2008.

VI. Describes the effect the requested time modification would have on the schedule for the case

Plaintiff Johnson contends that the time modification to keep all responsive pleadings to Plaintiff Johnson's Motion for Leave to File a First Amended Complaint would have no effect on the schedule for the case. However, Plaintiff Johnson does contend that if the Court sets all responsive pleadings to Plaintiff Motion for Leave to File a First Amended Complaint per the July 18, 2008, hearing, then such would not be prejudicial to Plaintiff Johnson and all responsive pleadings to Plaintiff's Motion for Leave to file a First Amended Complaint would be filed based on the merits of the dates imposed by the July 18, 2008, hearing.

VII. Conclusion

For the reasons as stated herein, Plaintiff Johnson requests that the Court grant the relief he seeks by the filing of this Ex Parte Motion to Shorten Time

/s/

Dated this 17th day of June 2008

SAMUEL BERNARD JOHNSON III